

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

PAUL MOORE,	)	
Plaintiff,	)	
	)	CASE NO. 1:12-cv-0113 JMS-MJD
	)	
	)	
	)	LOWER COURT CAUSE NO.:
	)	49D05-1112-CT-048246
KOHNER PROPERTIES, INCORPORATED,	)	
Defendant.	)	

**DEFENDANT’S ANSWER TO PLAINTIFFS’ COMPLAINT**

**COMES NOW** Defendant Kohner Properties, Incorporated, by counsel, and for its Answer to Plaintiff’s Complaint for Damages, state as follows:

**ANSWER**

1. Moore was at all relevant times a resident of Marion County, Indiana.

**ANSWER: Defendant is without information so as to admit or deny the allegations contained in the above rhetorical paragraph.**

2. Defendant Kohner Properties, Incorporated (“Kohner”) was at all relevant times a for-profit foreign corporation registered to conduct business in the State of Indiana, with its corporate offices located in St. Louis Missouri.

**ANSWER: Defendant admits the allegations as contained in the above rhetorical paragraph.**

3. Kohner owns and operates an apartment complex, known as Whitfield Square Apartments, located at 4555 North Arlington Avenue in Indianapolis, Indiana.

**ANSWER: Defendant denies the allegations as contained in the above rhetorical**

**paragraph.**

4. On or around January 2, 2010, Moore was visiting a friend who lived at the Whitfield Square Apartments.

**ANSWER: Defendant is without information so as to admit or deny the allegations contained in the above rhetorical paragraph.**

5. While in his friend's apartment, Moore was severely injured when he was shot multiple times by two assailants.

**ANSWER: Defendant is without information so as to admit or deny the allegations contained in the above rhetorical paragraph.**

6. Kohner was negligent in failing to take reasonable precautions to protect its tenants and their guests, including Moore, from foreseeable criminal attacks.

**ANSWER: Defendant denies the allegations as contained in the above rhetorical paragraph.**

7. As a direct and proximate result of Kohner's negligence, Moore suffered personal injuries and damages.

**ANSWER: Defendant denies the allegations as contained in the above rhetorical paragraph.**

**WHEREFORE,** Defendant prays Plaintiff takes nothing by way of his complaint for damages, for costs of this action and for all other relief just and proper in the premises.

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### **AFFIRMATIVE DEFENSES**

**COMES NOW** Defendant Kohner Properties, Incorporated, and for its affirmative defenses state as follows:

1. Plaintiff's injuries, death and damages were caused by the fault/intentional acts of non-parties over whom this answering defendant had no control and for whom this answering defendant cannot be held accountable including Terry Drake who has been convicted of attempted murder of Paul Moore.

2. That plaintiff waived any rights against defendant for personal injury and resulting damages caused by third persons.

3. Plaintiff incurred the risk of injury/damage as alleged in his complaint.

4. That plaintiff has failed to join parties needed for just adjudication.

5. That plaintiff was a trespasser at Whitfield Square Apartments at the time of the accident.

**WHEREFORE** defendant Kohner Properties, Incorporated, by counsel, respectfully requests plaintiff take nothing by way of his complaint for damages, be assessed

costs, and for all other relief this Court deems just.

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**DEFENDANTS' REQUEST FOR JURY TRIAL**

**COMES NOW** Defendant Kohner Properties, Incorporated, by counsel, and respectfully requests a trial by jury in the above captioned matter.

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was filed electronically on the \_\_\_\_ day of February, 2012. Notice of this filing will be sent to the following party or parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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